IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

WP(C).No. 2503 of 2007(W)

PETITIONER:

NATIONAL APPARELS LTD.,
P.B.NO.4405, VENNALA, COCHIN-682 028
REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADV. SMT.T.D.RAJALAKSHMI
SRI.E.R.VENKATESWARAN
SMT.E.VASANDA KUMARI

RESPONDENTS:
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1. THE COMMERCIAL TAX OFFICER (AUDIT ASSESSMENT), SALES TAX OFFICE, IIND CIRCLE, KALAMASSERY, PALARIVATTOM.

2. THE INSPECTING ASST.COMMISSIONER, COMERCIAL TAX, KAKKANAD.

BY GOVERNMENT PLEADER SRI.JULIEN XAVIER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

WP(C).No.2503 of 2007-W

Dated this the 31st day of January, 2007.

JUDGMENT

The petitioner is aggrieved by Ext.P3 assessment order and the consequential recovery proceedings to collect balance tax due under the said order. But, against that order the petitioner has got alternate remedy under the provisions of the K.G.S.T. Act. But, the learned counsel for the petitioner submits that the portion of tax demanded under Ext.P3 is not authorised by law and therefore the demand to that extent is violative of Article 265 of the Constitution of India which provides that tax cannot be collected without authority of law. If, any tax is collected without authority of law it is a point which can be raised before the appellate authority. The learned counsel for the petitioner relied on the decision of the Apex Court in State of Kerala Vs. Alex George (2005 (1) KLT 164). I am sure the appellate authority will take into account if this decision is cited before it. Therefore, it is unnecessary for this court to entertain this writ petition. Accordingly, it is dismissed without prejudice to the contentions of the petitioner and its right to challenge Ext.P3 including the right to

challenge interest demanded.

K.BALAKRISHNAN NAIR,
MS JUDGE.